

RECOMMENDATIONS MARYLAND

1. Criminalization of Domestic Minor Sex Trafficking

1.1 The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law

Maryland: No recommendation.

1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

Maryland: No recommendation.

1.3 CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 11-305 (Abduction of child under 16), § 3-324 (Sexual solicitation of minor), and § 11-207 (Child pornography) to refer to § 11-303(b) (Human trafficking) in order to clarify the status of the exploited minor as a domestic minor sex trafficking victim.

2. Criminal Provisions Addressing Demand

2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law §11-303 (Human trafficking) to expressly apply to buyers of commercial sex acts with minors.

2.2 Buyers of commercial sex acts with a minor can be prosecuted under a CSEC law.

Maryland: No recommendation.

2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18

Maryland: No recommendation.

2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Maryland: No recommendation.

2.5 Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

Maryland: No recommendation.

2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law §11-303 (Human trafficking) and Md. Code Ann., Crim. Law § 11-305 (Abduction of child under 16), § 3-324 (Sexual solicitation of minor), and § 11-207 (Child pornography) to prohibit a mistake of age defense to prosecution when the victim of the crime is a minor.

2.7 Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.

Maryland: No recommendation.

2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

Maryland: Recommendation: Enact a law requiring defendants to forfeit all assets used in connection with the commission of a commercial sexual exploitation of a child crime.

2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

Maryland: No recommendation.

2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

Maryland: No recommendation.

3. Criminal Provisions for Traffickers

3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 11-305 (Abduction of child under 16) to make this crime a felony in alignment with the seriousness of sex trafficking and commercial sexual exploitation.

3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.

Maryland: No recommendation.

3.3 Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 3-324 (Sexual solicitation of minor) to include Md. Code Ann., Crim. Law § 11-303 (Human trafficking) as an enumerated predicate offense to ensure this offense would apply to traffickers.

3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

Maryland: Recommendation: Enact a law requiring traffickers to forfeit all assets used or obtained in connection with the commission of a crime of human trafficking or commercial sexual exploitation of a child.

3.5 Convicted traffickers are required to register as sex offenders.

Maryland: No recommendation.

3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.

Maryland: Recommendation: Amend Md. Code Ann., Fam. Law § 5-323(d) (Grant of guardianship—Nonconsensual) to expressly provide that a court may terminate the parental rights of a parent convicted under Md. Code Ann., Crim. Law § 11-303(b) (Human trafficking), § 11-305 (Abduction of child under 16), § 3-603(a) (Sale of minor), § 11-304 (Receiving earnings of prostitute), § 9-802(a) (Criminal gang activity), § 9-804(a) (Participation in criminal gang prohibited), § 3-324(b) (Sexual solicitation of minor), or § 11-207(a) (Child pornography) when the victim is any minor.

4. Criminal Provisions for Facilitators

4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

Maryland: No recommendation.

4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

Maryland: Recommendation: Enact a law requiring individual or corporate facilitators to forfeit all assets used or obtained in connection with the commission of a crime of human trafficking or commercial sexual exploitation of a minor.

4.3 Promoting and selling child sex tourism is illegal.

Maryland: Recommendation: Enact a law that prohibits selling or offering to sell travel services that include or facilitate travel for the purpose of engaging in commercial sexual exploitation of a minor, if occurring in Maryland.

4.4 Promoting and selling child pornography is illegal.

Maryland: No recommendation.

5. Protective Provisions for the Child Victims

- 5.1 A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.

Maryland: No recommendation.

- 5.2 The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 3-324 (Sexual solicitation of minor), § 11-207 (Child pornography), § 11-303 (Human trafficking), and § 11-305 (Abduction of child under 16) to expressly provide that the minor's consent to a commercial sex act is not a defense to the crime.

- 5.3 Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 11-306(a)(1) (House of prostitution) to make minors expressly immune from prosecution for prostitution and identify all minors engaged in prostitution as victims of human trafficking under Md. Code Ann., Crim. Law § 11-303(b) (Human trafficking) and 22 U.S.C. § 7102 (Trafficking Victims Protection Act of 2000).

- 5.4 Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.

Maryland: Recommendation: Establish a mandatory response law directing any minor involved in prostitution or pornography and who is a victim of human trafficking under Md. Code Ann., Crim. Law § 11-303(a)(1) (Human trafficking) away from the criminal justice system and into a child protective services system.

- 5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

Maryland: Recommendation: Amend Md. Code Ann., Fam. Law § 5-701(b) (Definitions) and Md. Code Ann., Cts. & Jud. Proc. § 3-801(x) to expressly identify commercial sexual exploitation and sex trafficking of minors as types of abuse under Maryland's child protection statutes.

- 5.6 The definition of "caregiver" (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.

Maryland: Recommendation: Amend the definition of "custodian" in Md. Code Ann., Cts. & Jud. Proc. § 3-801(j) (Definitions) to include a person who has control over the child in order to allow child protective services to investigate cases of abuse and neglect of children under control of a non-familial trafficker.

5.7 Crime victims' compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Proc. § 11-808(a) (Eligibility for Awards), § 11-809(a) (Filing of claims), and § 11-810(a), (d) (Conditions for awards on claims) to expressly provide that victims of domestic minor sex trafficking are exempt from all ineligibility and award reduction factors, and that victims of commercial sexual exploitation and sex trafficking are eligible for a good cause exception under Md. Code Ann., Crim. Proc. § 11-810(a)(1)(iv) (Definitions).

5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 3-319(a) (Rape and sexual offense—Admissibility of evidence) to allow the “rape shield” law to apply to testimony by minor victims of sex trafficking in a prosecution under Md. Code Ann., Crim. Law § 11-303 (Human trafficking), § 11-305 (Abduction of child under 16), § 3-324 (Sexual solicitation of minor), and § 11-207 (Child pornography).

5.9 Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

Maryland: No recommendation.

5.10 Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.

Maryland: No recommendation.

5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Maryland: Extend the time for filing civil actions for damages resulting from Md. Code Ann., Crim. Law § 11-303 (Human trafficking), § 11-305 (Abduction of child under 16), § 3-324 (Sexual solicitation of minor), and § 11-207 (Child pornography).

6. Criminal Justice Tools for Investigation and Prosecution

6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.

Maryland: Recommendation: Amend Md. Code Ann., Pub. Safety § 3-207 (General powers and duties of Commission) and Md. Code Regs. 12.04.01.09(C) (Minimum standards for entrance-level training for police officers) to mandate training for law enforcement on human trafficking and domestic minor sex trafficking specifically.

6.2 Single party consent to audio-taping is permitted in law enforcement investigations.

Maryland: No recommendation.

6.3 Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.

Maryland: No recommendation.

6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 3-324 (Sexual solicitation of minor) to expressly provide that the use of a decoy by law enforcement in the investigation of human trafficking is not a defense to prosecution by including Md. Code Ann., Crim. Law § 11-303 (Human trafficking) as an enumerated predicate offense.

6.5 Using the Internet to investigate buyers and traffickers is a permissible investigative technique.

Maryland: Recommendation: Amend Md. Code Ann., Crim. Law § 3-324 (Sexual solicitation of minor) to include Md. Code Ann., Crim. Law § 11-303 (Human trafficking) as an enumerated predicate offense.

6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

Maryland: No recommendation.